



Post Office Box 90012 • Bellevue, Washington • 98009 9012

September 30, 2005

Mr. Bill Moore
WA Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

RE: Bellevue's Comments - Preliminary Draft NPDES Phase II Stormwater Permit Appendix 6 – Annual Report Form

Dear Mr. Moore:

Bellevue staff appreciates the opportunity to review and comment on the preliminary draft National Pollutant Discharge Elimination System (NPDES) Permit Appendix 6 – Annual Report Form. Our comments are provided below.

1. Although our comments will focus primarily on format and the level of detail, our first comment is that the material presented in Appendix 6 would better be provided as guidance after permit issuance, not as an appendix to the draft permit. If the Department of Ecology deems it necessary to require certain elements in the Annual Report, those requirements should be outlined in Special Condition S9 of the permit. There are many content and formatting issues in the draft Appendix 6, and working through these issues may complicate and potentially delay the issuance of the draft permit. Also, issuing the Annual Report format as an appendix to the permit will needlessly cause the format of the annual report to be an enforceable element of permit compliance. We believe that enforcement efforts should be focused on achievement of the overall goals of the NPDES program and not the format of the annual report.
2. The proposed format is basically a checklist of minimum performance measure implementation, and does not adequately allow for discussion of the local approach taken by each jurisdiction in developing and implementing the Storm Water Management Plan (SWMP). Although your intent for this format may have been to facilitate determination of permit compliance, determination using a simple checklist would be superficial at best.
3. As it is just a very general checklist, the proposed format does not allow for an assessment, either by Ecology or by the Permittees, of the appropriateness of the identified best management practices and progress towards achieving the identified measurable goals for each of the minimum control measures (i.e., program components), which is a requirement of the federal Phase II rule. The proposed

format does not allow for listing of the SWMP BMPs or measurable goals (i.e., the minimum performance measures outlined in Special Condition S7). An alternative format for the annual report (Alternative Annual Report Form) that we believe would allow for this assessment of appropriateness and progress is attached.

3. The proposed Ecology format is very cumbersome. Per Executive Order 05-03, Plain Talk, documents that state agencies send to the public should contain clear and concise instructions and information. Documents written in Plain Talk should include:

- Clear language that is commonly used by the intended audience;
- Only the information needed by the recipient, presented in a logical sequence;
- Short sentences;
- Sentences, written in active voice, that make it clear who is responsible for what; and
- Layout and design that help the reader understand the meaning on the first try. This includes adequate white space, bulleted lists, helpful headings and other proven techniques.

The attached suggested Alternative Annual Report Form was developed in what we believe to be “Plain Talk.”

4. Ecology should take advantage of the vast wealth of stormwater program implementation knowledge that is available within the state. A Technical Advisory Committee should be formed to assist Ecology in developing the final Annual Report Form, as well as providing ongoing assistance with Phase II permit implementation, such as review of the annual reports.

5. As the proposed Alternative Annual Report Form (attached) illustrates, the Annual Report should focus on the minimum reporting requirements in the federal rule:

The status of compliance with permit conditions, and assessment of the appropriateness of your identified BMPs, and progress towards achieving your measurable goals for each minimum control measure.

6. The inclusion of a yes/no checkbox (page 22) for Special Condition S5, Compliance with Standards, is not helpful to Ecology or others in assessing whether the above has been accomplished. As stated in our comment letter on the preliminary draft permit, this entire section is confusing and in our opinion will be impossible to administer. Some items embedded within the condition, such as the adoption of the technical standards, are already covered in Special Condition S7, and a separate check-off item for implementation is not necessary.
7. A few of the other mandatory federal elements that were not included in the proposed format have been included on the attached Alternative Annual Report Form. These elements include:

- a) Results of information collected and analyzed, including monitoring data, if any, during the reporting period.
- b) A summary of the stormwater activities you plan to undertake during the next reporting cycle.
- c) A change in any identified BMPs or measurable goals for any of the minimum control measures.
- d) Notice that you are relying on another governmental entity to satisfy some of your permit obligations (if applicable).

Summary

Overall, we believe that the preliminary draft Appendix 6 format is cumbersome and will, in the end, be ineffective. Most importantly, we believe that it does not satisfy the annual reporting requirements contained in the federal Phase II rule. It also goes beyond what has been adopted as guidance in many other states.

We hope to work with Ecology, Phase II municipalities, and other stakeholders to forge a results-based, feasible, small MS4-focused permit and annual report format.

Sincerely,

Damon Diessner
Assistant Director, Environment Division
Bellevue Utilities

Attachments